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In re Application of: David Fu

Serial No. 10/662,632

Filed: September 15, 2003

Title: Display Holders for Flat Items

Attorney Docket 10448

Group Art Unit: 3611

Examiner: Gary Chapman Hoge

SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. §1.132

I, Bruce J. Greenbaum, hereby declare:

(1) I am President of Ultra Pro L.P., the assignee of the entire interest in the above-referenced application for patent. This Declaration is supplemental to my Declaration dated June 19, 2006, which was filed in this application on June 26, 2006.

(2) It is my understanding that my previous Declaration, insofar as it relates to the commercial success of the magnetic card holder described and claimed in the above-referenced patent application (sometimes referred to in this Supplemental Declaration as the "ONE TOUCH"), did not specifically address an issue of concern to the examiner, specifically as to whether the commercial success of the magnetic ONE TOUCH card holder may have been the result of a massive or intensive marketing campaign rather than the direct result of the claimed magnetic closure feature of the ONE TOUCH. This issue is considered in this Supplemental Declaration.

(3) During the time covered by my previous Declaration, from Ultra Pro's introduction of the magnetic ONE TOUCH card holder in 2003 through the first quarter of 2006, Ultra Pro has followed a conservative advertising program with respect to the ONE TOUCH. A listing of advertisements placed by Ultra Pro which include the ONE TOUCH is set forth in the attached Exhibit A.

(4) The first of these advertisements, which is the only advertisement solely directed to the ONE TOUCH, appeared in the July 2004 issue of *Beckett Baseball* (a monthly magazine concerning baseball cards, published by Beckett Publications). This one-half page advertisement, a copy of which is attached as Exhibit B, introduces “THE NEW MAGNETIC ONE TOUCH CARD HOLDER BY ... Ultra PRO”. The cost for this advertisement was \$3,300.

(5) During the year 2005, the ONE TOUCH was included as one of several Ultra Pro sports-related products in composite advertisements placed from time to time. Specifically, the composite advertisement attached hereto as Exhibit C, which shows the ONE TOUCH along with nine other Ultra Pro sports-related products, ran in the March 2005 issue of *Card Trade* (a monthly magazine directed to the sports memorabilia industry, published by Krause Publications). The composite advertisement attached hereto as Exhibit D, which shows the ONE TOUCH along with twelve other Ultra Pro sports-related products, ran in *Beckett Baseball Almanac* (an annual price guide for baseball cards). The composite advertisement attached hereto as Exhibit E, which shows the ONE TOUCH along with twelve other Ultra Pro sports-related products, ran in the September/October issue of *Beckett Direct* (a bi-monthly industry publication for retail sports card shops); in *Beckett Football Playbook* (an annual publication concerning football cards); and in *Beckett Football Almanac* (an annual price guide for football cards). The aggregate costs for these composite advertisements was \$6,350.

(6) During the same time period, specifically during the first quarter of 2006, the composite advertisement attached hereto as Exhibit F appeared in the March issue of *Card Trade*. This composite advertisement shows the ONE TOUCH along with eleven

other Ultra Pro sports-related products including both the 1-screw screwdow. The cost for this composite advertisement was \$2,700.

(7) With respect to all of the advertisements shown in Exhibits A-F, the aggregate cost for all such advertisements amounted to \$12,350, of which \$4,077 is attributable to the aggregate cost for advertising the ONE TOUCH. Since sales of the ONE TOUCH since its introduction through the first quarter of 2006 amounted to \$599,546 (see sales tabulation on page 3 of my previous Declaration), the percentage of ONE TOUCH advertising costs to ONE TOUCH sales was 0.68%.

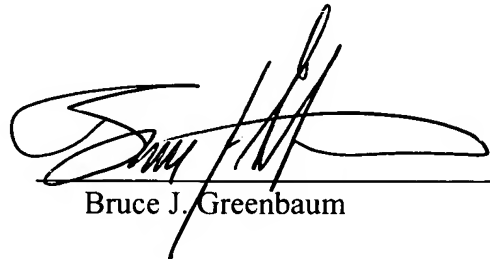
(8) During the same time period, both the ONE TOUCH and the 1-screw screwdow card holders appeared together in Ultra Pro's "Hobby Catalog", both products appearing on the same page, specifically page 13 a copy of which is attached hereto as Exhibit G.

(9) Also during the same time period, the ONE TOUCH and the 1-screw screwdow card holders were sold in retail stores in comparable point-of-sale displays, typically placed side-by-side, a photograph of such displays being attached hereto as Exhibit H.

(10) Clearly, the commercial success of Ultra Pro's magnetic ONE TOUCH card holder was not the result of a massive or extensive advertising campaign. The modest advertising for the magnetic ONE TOUCH card holder was directed primarily to make retailers and consumers aware of this product. Card collectors are knowledgeably selective as concerning holders for displaying and storing their sports cards; the ONE TOUCH is not the type of product that can be sold by advertising hyperbole. I have been informed and so believe that card collectors are attracted to the magnetic ONE TOUCH

card holder when they discover its convenient and effective magnetic closure; that such discovery by consumers is in most cases not the result of advertising but by word-of-mouth among card collectors and by becoming aware of the magnetic closure of the ONE TOUCH product at retail sports card outlets; and that, after initial purchase, repeat sales of the ONE TOUCH are the usual consequence of such card collector consumers' actually experiencing the convenience and effectiveness of its magnetic closure. It is apparent that the commercial success of the magnetic ONE TOUCH card holder is the direct result of its magnetic closure feature.

(11) I further declare that all statements made herein of my own knowledge are true and that all statements on information and believe are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issuing therefrom.



Bruce J. Greenbaum

Date: 12/1/06

Exhibit A

Advertisements Including the ONE TOUCH
2003 through 1st Quarter 2006

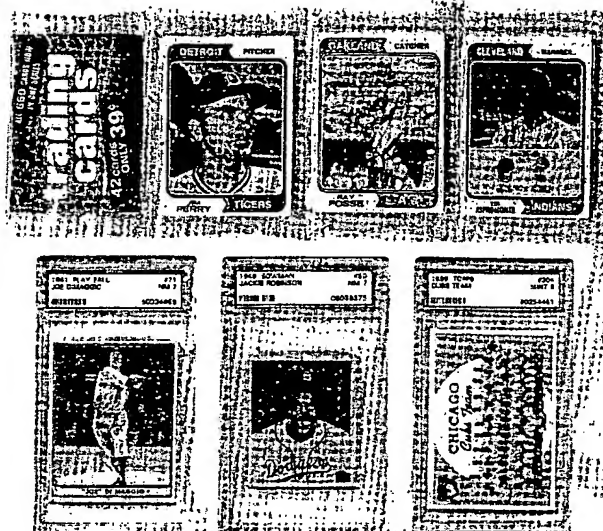
Year	Products	Exhibit	Publication	Ad Space	Issue	Cost of Ad	ONE TOUCH Cost
2004	ONE TOUCH	B	Beckett Baseball	1/2 page	July	\$3,300	\$3,300
2005	ONE TOUCH plus 9 other products	C	Card Trade	single page	March	2,700	270
2005	ONE TOUCH plus 12 other products	D	Beckett Baseball Almanac	single page	Annual	750	58
2005	ONE TOUCH plus 12 other products	E	Beckett Direct	single page	Sept/Oct	1,400	108
2005	ONE TOUCH plus 12 other products	E	Beckett Football Playbook	single page	Annual	750	58
2005	ONE TOUCH plus 12 other products	E	Beckett Football Almanac	single page	Annual	750	58
2006	ONE TOUCH plus 11 other products including 1-screw	F	Card Trade	single page	March	2,700	225
						<u>\$12,350</u>	<u>\$4,077</u>

BASEBALL CARD EXCHANGE IS BUYING!

- ANY and ALL unopened material in all sports!
- Wax, Cello, Pack, Vending boxes and cases from 1948-2002. We are extremely aggressive buyers on unopened material, especially pre-1980!
- We will even buy your whole basement of junk wax!
- Pre-1973 Topps, Fleer and Bowman complete sets and singles, graded or ungraded!
- We will travel for large deals!...and!

SELLING!

- Unopened material from 1960-2002
- Graded HOFers such as Gehrig, Mantle & Williams
- Graded commons from 1948-1970



Visit us at

www.BBCEXCHANGE.COM

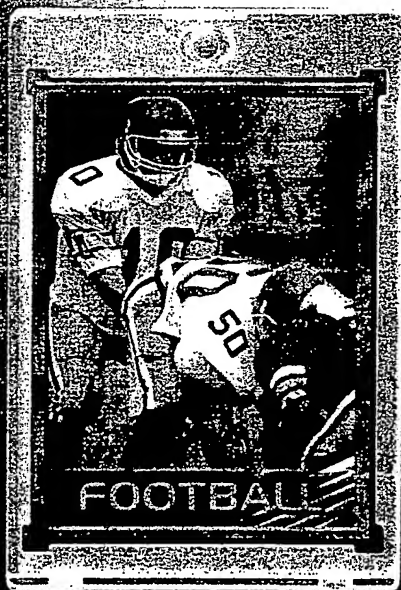
**BASEBALL CARD
EXCHANGE**

400 Fisher Street, Suite J • Munster, Indiana 46321

800.598.8656

BBCEXCHANGE@SPRINTMAIL.COM

BEST AVAILABLE COPY



HOLDS 32PT. CARDS

- No Screw, no screwdriver needed!
- Easy open and close
- Diamond corners to prevent damage to cards
- Recessed card area • Frosted border
- Acid free

THE NEW MAGNETIC
ONE TOUCH CARD
HOLDER BY... *Ultra-PRO*

HOLDS 180PT. CARDS

*Patent Pending

Ultra-PRO

Visit our website at:
www.ultrapro.com
Los Angeles, CA 90040

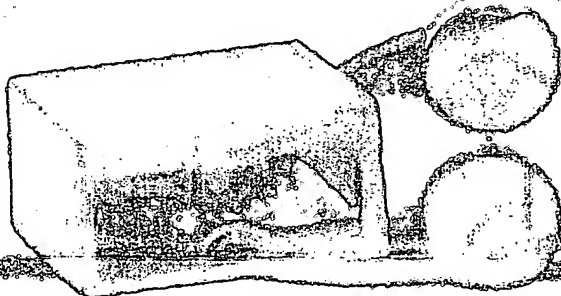
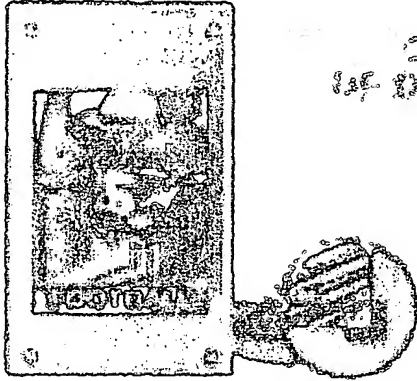
COLLECTORS NUMBER ONE CHOICE

Ultra-PRO®

With the help
of Distinctive Express
Products



ONE
0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"



0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"

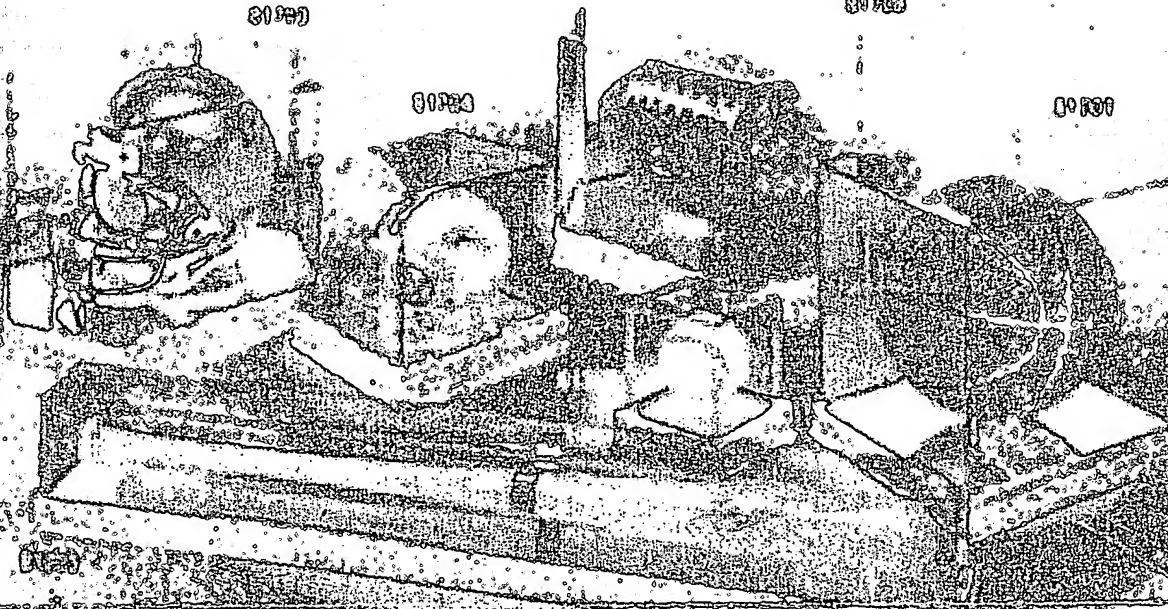


0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"



0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"

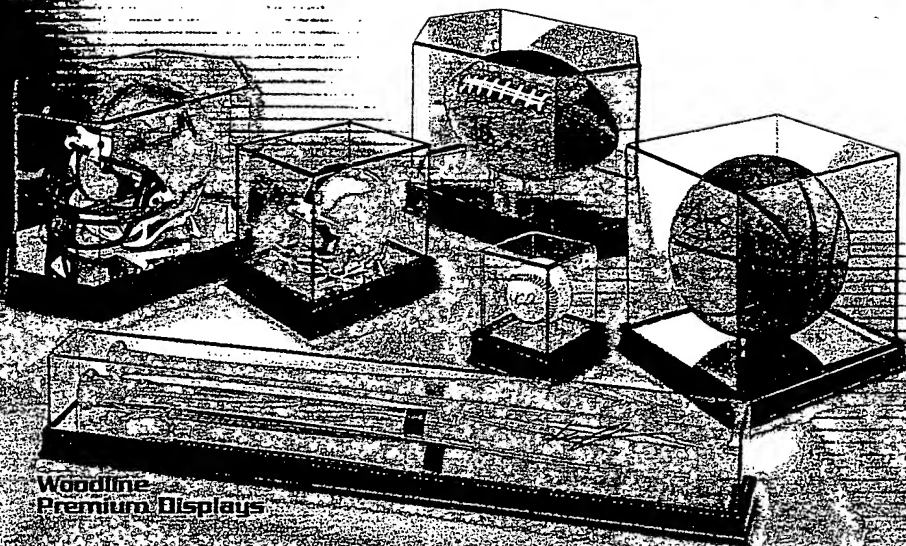
The Premium Memorabilia Displays



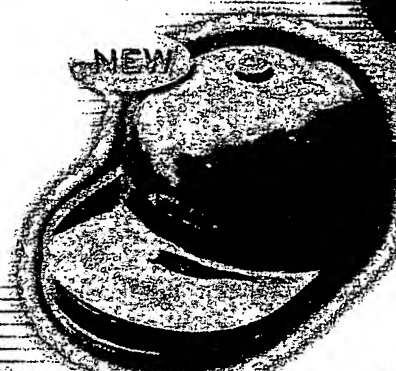
0.4" x 0.4" x 0.4"
0.4" x 0.4" x 0.4"

If it's worth collecting,
it's worth

Ultra•PRO®



Woodline
Premium Displays

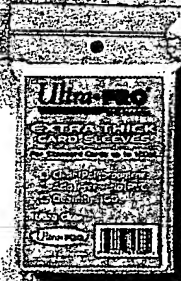


Collectors Cap Display

Acid-Free Albums



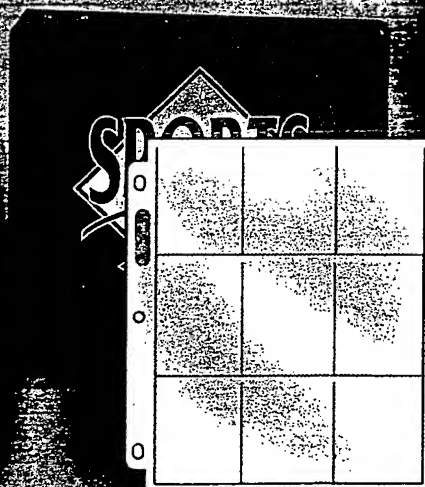
Thick Rookie
Card Toploaders



Thick Extra
Sleeves

All Sports!

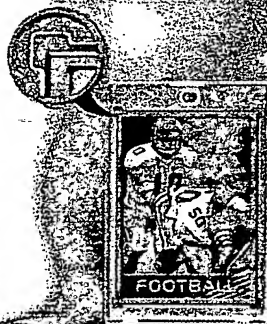
**Ultra
Clear**



9 Pocket Platinum Pages



Diamond
Corner Box

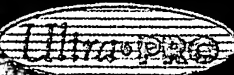


One-Touch
with
Diamond
Corners



Extra Thick
One-Touch with
Diamond Corners

**Your One Stop
Destination for
Collectible Care!**



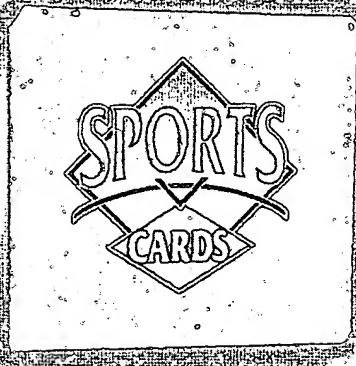
6049 Slauson Ave., Commerce, CA 90040
800-736-1975 Visit our web site at www.ultrapro.com for available retailers

IF IT'S WORTH COLLECTING,
IT'S WORTH

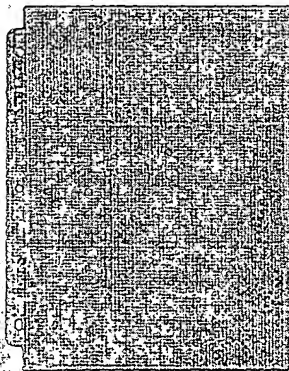
Ultra-PRO®



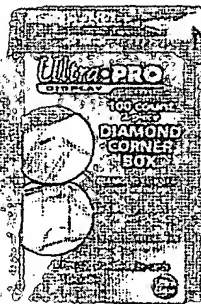
NEW
COLLECTORS
CAP DISPLAY



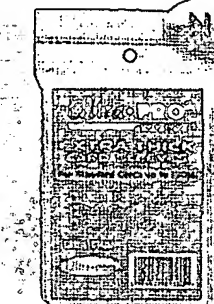
ACID FREE ALBUMS



9 POCKET
PLATINUM PAGES



NEW
DIAMOND
CORNER BOX



NEW

THICK CARD
SLEEVES



ONE TOUGH WITH
DIAMOND CORNERS

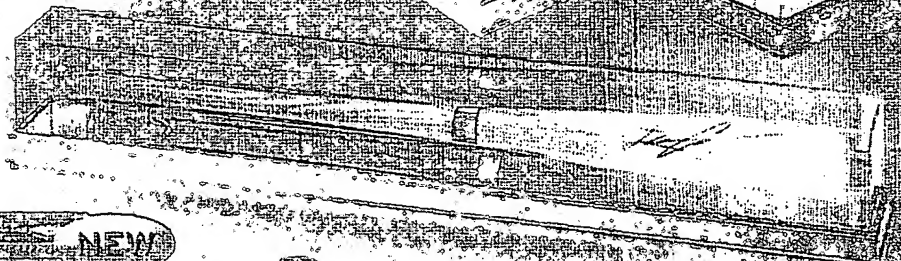


EXTRA THICK
ONE TOUGH WITH
DIAMOND CORNERS



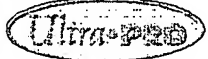
NEW

THICK ROOKIE CARD
TOPLADERS



WOODLINE PREMIUM DISPLAYS

Your One Stop Destination for Collectible Care!



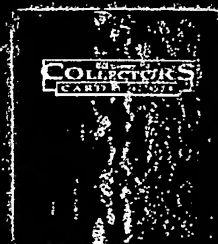
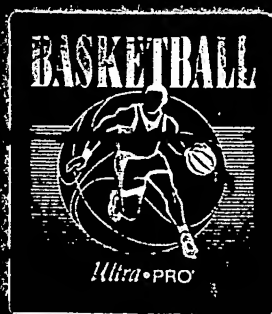
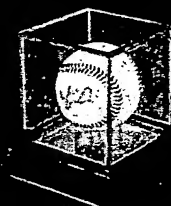
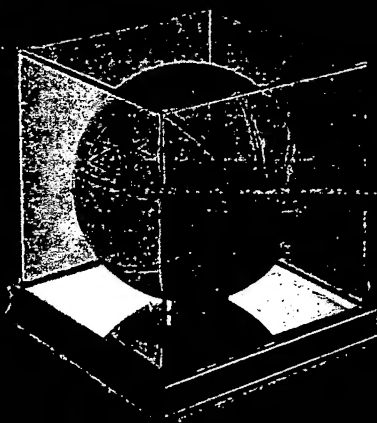
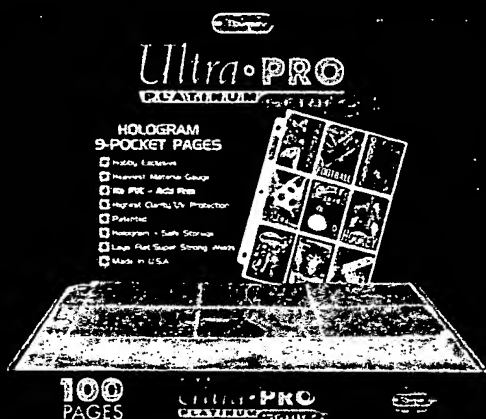
6049 Slauson Ave., Commerce, CA 90040 • 800-736-1975 • www.ultrapro.com

Ultra•PRO® *Over Twenty Years* 1984 - 2006

CELEBRATING A TRADITION OF INNOVATION

Ultra•PRO®, established in 1984,
has protected your collection for over 20 years.

We were there from the first Ultra•PRO® line of NO PVC Pages in 1990, to the first UV Ball Holders, Magnetic 1-Touches™, and Diamond Corner™ Boxes. As the market has evolved, so have we with Thick Card Sleeves and Thick Toploaders, numerous Pages, Binders, Portfolios, and the best Woodline products on the market. Ultra•PRO® has long been established as the industry leader in collectible storage products!



Join us in celebrating the 10th Anniversary of the Ultra•PRO® Deck Protector!



www.ultrapro.com

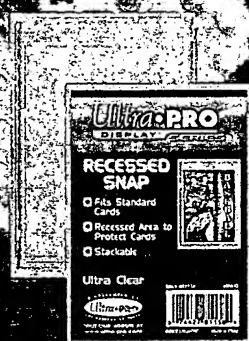
6049 Slauson Ave., City of Commerce, CA 90040 • 800-736-1975

10 YEARS
OF DECK PROTECTORS

Ultra-PRO[®] Specialty Holders

SPECIALTY SERIES

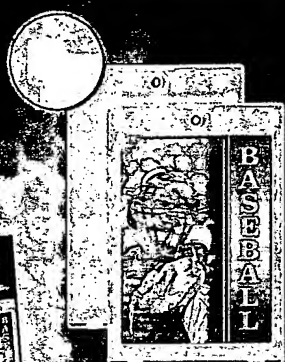
13



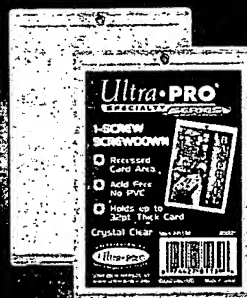
- 81138**
RECESSED SNAP
- Individually shrink wrapped
 - 400 per case



- 81136**
MINI SNAP
- Individually shrink wrapped
 - 400 per case



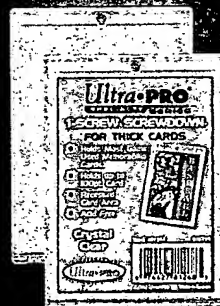
- 81575**
ONE-TOUCH
- Holds up to 35pt. card
 - Magnetic closure
 - Individually shrink wrapped
 - Frosted border



- 81139**
1-SCREW
- Individually shrink wrapped
 - Holds up to 32pt. card
 - 25 per counter display



- 81721**
THICK ONE-TOUCH
- Holds up to 130pt. card
 - Magnetic closure
 - Individually shrink wrapped
 - Frosted border
 - Diamond corners to prevent damage to your cards corners
 - 25 per counter display



- 81268**
THICK 1-SCREW
- Individually shrink wrapped
 - Holds up to 100pt. card
 - 25 per counter display

LUCITE HOLDERS



- 81290**
LARGE STAND HOLDER
- Sturdy lucite holder
 - 20 per case



- 81256**
SMALL STAND HOLDER
- Sturdy lucite holder
 - 5 stands per bag
 - 20 bags per master carton

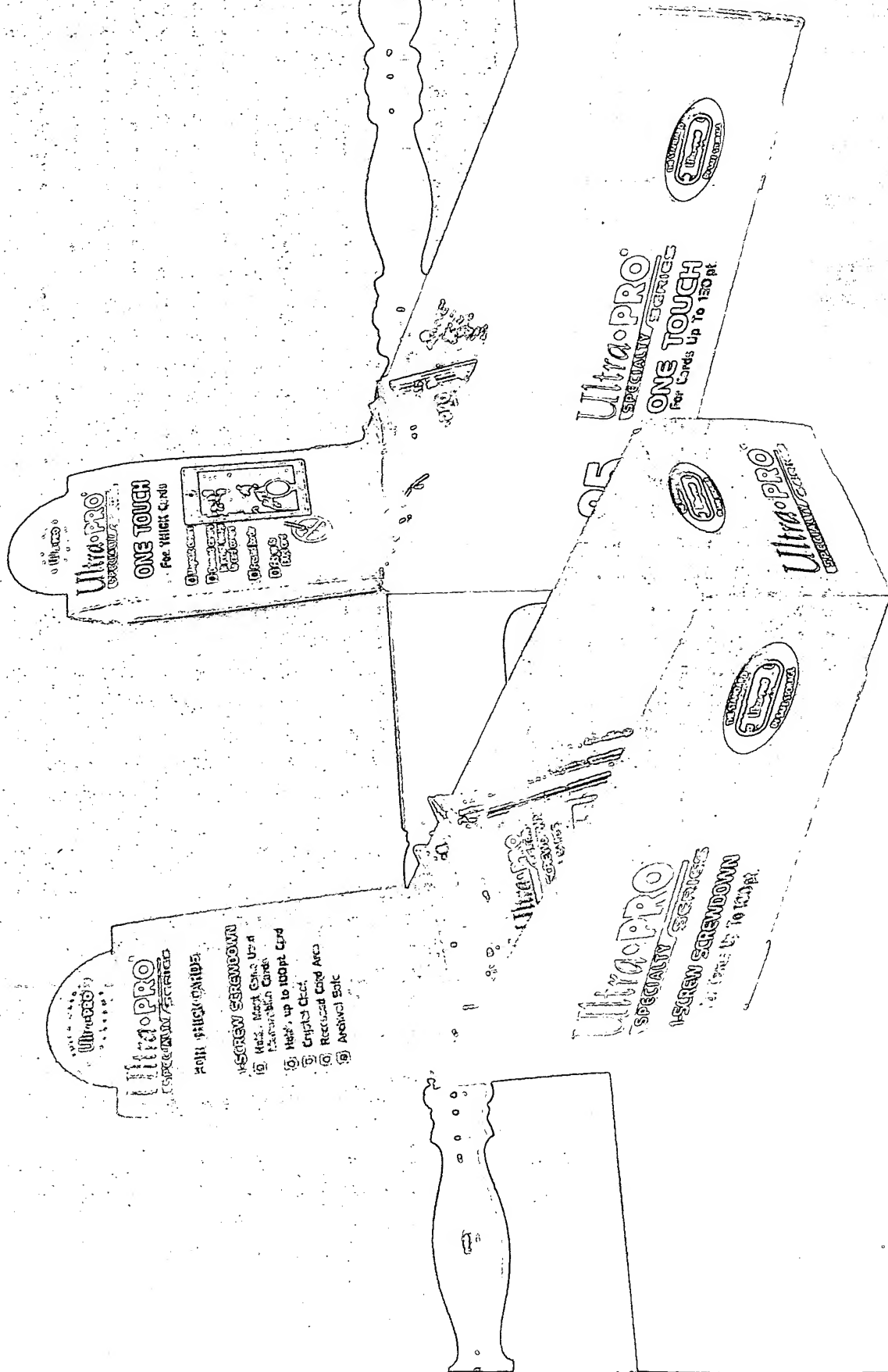


- 81352**
2 1/2" x 3 1/2" DELUXE BLOCK IN CASE
- Holds up to a 80pt. thick vertical or horizontal card
 - 1" thick
 - Elegant display case is fabric lined with hinged construction



Exhibit G

Specialty Holders



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